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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,651	03/05/2002	Brady R. Dow	21224-000130	9164
35657	7590	12/05/2005		
FAEGRE & BENSON LLP PATENT DOCKETING 2200 WELLS FARGO CENTER 90 SOUTH 7TH STREET MINNEAPOLIS, MN 55402-3901			EXAMINER BADII, BEHRANG	
			ART UNIT	PAPER NUMBER
			3621	

DATE MAILED: 12/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/091,651

Applicant(s)

DOW, BRADY R.

Examiner

Behrang Badii

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-4 and 6-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-4 and 6-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### ***Response to Arguments***

Applicant's arguments filed 9/14/05 have been fully considered but they are not persuasive. The new changes are fully discussed below.

Hayashi discloses scripts items formed in a presentation, selection of a script item and performing the script item (abstract, fig's. 24, 26 & 19; col.16, 62-67; col.17, 1-11).

Hirni et al. further discloses receiving an indication of a presentation, wherein the presentation controls the form that the script item is presented to the recipient (col. 1, lines 15-27, lines 65-67; col. 2, lines 1-11). Hirni et al does not disclose a combination (set) of script items. Hayashi discloses a combination (set) of scripts (abstract; col.16, 62-67; col.17, 1-11; fig's 24, 26 & 19).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both Hirni et al. and Hayashi are disclosing a method/system that has to do with conversing.

### **DETAILED ACTION**

Claims 2-4 & 6-25 have been examined.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 24, 2-4, 25, 6-8, 12-17 & 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirni et al., U.S. patent 6,731,609, and further in view of Hayashi, U.S. patent 6,722,989.

As per claim 24, Hirni et al. discloses a network of conversation control systems, the network comprising: at least a first and a second (col.2, 12-23) conversation control system; and a central control (call center), wherein the central control is communicably coupled to the first and the second conversation control systems (Abstract; Fig. 1), wherein the first and second conversation control system is accessible to a first and second human operator (user), wherein the first and second conversation control system is operable to receive input from the first and second human operator (user) (abstract; fig's 1, 4, 12-13).

Hirni et al. does not discloses script items formed in a presentation, selection of a script item and performing the script item. Hayashi discloses scripts items formed in a presentation, selection of a script item and performing the script item (abstract, fig's. 24, 26 & 19; col.16, 62-67; col.17, 1-11). It would have been obvious to modify Hirni et al. to include scripts items formed in a presentation such as that taught by Hayashi in order to allow the user to choose a response such that the conversation can be directed in a

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particular way, along a particular route to come to a certain conclusion and using the script programs which are used to generate the sentences.

As per claim 2, Hirni et al. further discloses an initiator, wherein the initiator (dialer, caller, calling system) is communicably coupled to the central control (Abstract; Fig. 1).

As per claim 4, Hirni et al. further discloses a central control comprising a set of components, and wherein the set of components is copied (routed) to both the first conversation control system and the second conversation control system under direction of the central control (Abstract; Fig. 1; col. 1, lines 42-58).

As per claim 25, Hirni et al. discloses a method for providing information to one or more recipients, the method comprising: providing a first conversation control system, wherein the first conversation control system includes a computer readable medium associated with the first conversation control system; providing a second conversation control system, wherein the second conversation control system includes a computer readable medium associated with the second conversation control system; providing an initiator; communicating with the initiator, wherein a human (user) recipient is contacted; and selecting one of the first conversation control system or the second conversation control system to interact with the human recipient; and communicating with the recipient via the selected conversation control system (Abstract; Fig. 1, 4, 12 & 13), receiving an indication from a human operator (user) associated with the selected conversation control system (col.25, 49-57; abstract; fig.1). Hirni et al. does not disclose a plurality of performed script items. Hayashi discloses a plurality of performed

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script items (abstract, fig's. 24, 26 & 19). It would have been obvious to modify Hirni et al. to include a plurality of performed script items such as that taught by Hayashi in order to allow the user to choose a response such that the conversation can be directed in a particular way, along a particular route to come to a certain conclusion and using the script programs which are used to generate the sentences.

As per claim 7, Hirni et al. further discloses maintaining components (packets) for use by the first and second conversation control systems on a central control (col. 1, lines 42-58); and updating both the first and second conversation control systems with the components (col. 30, lines 20-30).

As per claim 8, Hirni et al. further discloses determining if a component on the first conversation control system is less recent than a component on the central control (col. 30, lines 20-30).

As per claim 12, Hirni et al. further discloses a network of conversation control systems, the method comprising: initiating contact with a human (user) recipient via an initiator; selecting a conversation control system, wherein the conversation control system is accessible to a human operator (user); routing information received from the human recipient to the conversation control system; outputting the information received from the human in the form of an audio communication (col.4, 15-32; fig.2; col.1, 42-58) recipient via an output device of the conversation control system to the human operator (user); receiving an indication from the human (user) to respond to the information received from the human recipient; and presenting the script item to the human (user) recipient (Abstract; Fig's. 1, 2, 4, 12-13). Hirni et al. does not disclose a performed

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script item. Hayashi discloses a performed script item (abstract, fig's. 24, 26 & 19). It would have been obvious to modify Hirni et al. to include a performed script item such as that taught by Hayashi in order to allow the user to choose a response such that the conversation can be directed in a particular way, along a particular route to come to a certain conclusion and using the script programs which are used to generate the sentences.

As per claim 13, Hirni et al. further discloses receiving an indication of a script, wherein the script item is associated with a step of the script (packet technology) (col. 1, 42-58).

As per claim 14, Hirni et al. further discloses receiving an indication of a presentation, wherein the presentation controls the form that the script item is presented to the recipient (col. 1, lines 15-27, lines 65-67; col. 2, lines 1-11). Hirni et al does not disclose a combination (set) of script items. Hayashi discloses a combination (set) of scripts (abstract; col.16, 62-67; col.17, 1-11; fig's 24, 26 & 19). It would have been obvious to modify Hirni et al. to include a combination (set) of scripts such as that taught by Hayashi in order to choose a response such that the conversation can be directed in a particular way, along a particular route to come to a certain conclusion and using the script programs which are used to generate the sentences.

As per claim 15, Hirni et al. further discloses the indicated presentation as a voice presentation (col. 5, lines 37-52).

As per claim 16, Hirni et al. further discloses the voice presentation as a particular person's voice (col. 19, lines 15-21).

As per claim 17, Hirni et al. further discloses the person's voice as pre-recorded (col. 11, lines 56-59).

As per claim 21, Hirni et al. further discloses the selecting of the conversation control system is done by determining which of a plurality of conversation control systems is currently not in use (col. 25, lines 63-67; col. 26, lines 1-13).

As per claim 22, Hirni et al. further discloses selecting the conversation control system is done by determining which of a plurality of conversation control systems is about to terminate use (col. 9, lines 7-22; col. 26, lines 40-60).

As per claim 23, Hirni et al. further discloses providing a central control, wherein selection of the conversation control system is effectuated by the central control via a computer network (fig. 1; col. 1, lines 65-67; col. 2, lines 1-12; col. 2, lines 24-40).

As per claims 3,6 and 20, Hirni et al. further discloses the initiator as a predictive dialer (caller, request to make calls) (col. 26, lines 7-13).

Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirni et al., U.S. patent 6,731,609 as applied to claim 5 above, and further in view of Atsman et al., U.S. patent 6,607,136. As per claim 5, Hirni et al. discloses a method for providing information to one or more recipients as described above. As per claim 9, Hirni et al. does not disclose a computer associated with a database, wherein the database comprises one or more audio files; a speaker; and a input device. Astman et al. discloses a computer associated with a database, wherein the database comprises one or more audio files; a speaker; and a input device (Fig. 1, 29, 45 and 47; col. 35, lines 12-19; col. 51, lines 45-60). It would have been obvious to modify Hirni et al. to



include a computer associated with a database, wherein the database comprises one or more audio files;

a speaker; and a input device such as that taught by Astman et al. in order to have more ways to communicate via a computer and in order to have the database, including the audio files within the computer to make sending audio data more feasible and have more personal control over the sent data.

As per claim 10, Astman et al. further discloses receiving a first audio signal from the recipient; and outputting the first audio signal via the speaker to a user (Fig. 1, 29, 45 and 47; col. 35, lines 12-19; col. 51, lines 45-60).

As per claim 11, Astman et al. further discloses receiving a selection from the user at the input device of the first conversation control system, wherein the selection designates an audio file; and converting the audio file to a second audio signal; and outputting the second audio signal to the recipient (Fig. 1, 29, 45 and 47; col. 35, lines 12-19; col. 51, lines 45-60).

Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirni et al., U.S. patent 6,731,609 as applied to claim 14 above, and further in view of Borman et al., U.S. patent 6,748,055. As per claim 14, Hirni et al. discloses receiving an indication of a presentation, wherein the presentation controls the form that the script item is presented to the recipient (col. 1, lines 15-27, lines 65-67; col. 2, lines 1-11). Hirni et al, also discloses the software being written in different languages including Java (col. 41, lines 40-55). As per claim 18, Hirni et al. does not disclose the indicated presentation being in the recipient's language. Borman et al. discloses the indicated

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presentation being in the recipient's language and that the Java language is used in this software program (col. 11, lines 30-50). It would have been obvious to modify Hirni et al to include the indicated presentation being in the recipient's language such as that taught by Borman et al. in order to be able to have a platform that is language independent, therefore the system being capable of communicating in different languages according to where the user is from and what language the user speaks. Since the Java platform is used in the software being used, the system is language independent.

As per claim 19, Borman et al further discloses the recipient's language not being the user's language (col. 11, lines 30-50).

### ***Conclusion***

This is a continuation of applicant's earlier Application No. 10/091651. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Behrang Badii whose telephone number is 571-272-6879. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**Any response to this action should be mailed to:**

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Any inquiry of a general nature or relating to the status of this application  
or proceeding should be directed to the Technology Center 3600 Customer Service  
Office whose telephone number is **(703) 306-5771**.

Behrang Badii  
Patent Examiner  
Art Unit 3621

BB

*Behrang Badii*  
PRIMARY EXAMINER